

23 OCTOBER 1947

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Of
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23 OCTOBER 1947

I N D E X
of
EXHIBITS

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2258	3343		Affidavit of SAKUDA, Takataro (only to the extent indicated)		31632
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Thursday, 23 October 1947

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INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment,
at 0930.

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Appearances:

For the Tribunal, all Members sitting, with
the exception of: HONORABLE JUSTICE R. B. PAL, Member
from India, not sitting from 0930 to 1600; HONORABLE
JUSTICE E. H. NORTHCROFT, Member from the Dominion
of New Zealand, not sitting from 1330 to 1500;
HONORABLE JUSTICE LORD PATRICK, Member from the United
Kingdom of Great Britain, not sitting from 1330 to 1600.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

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(English to Japanese and Japanese
to English interpretation was made by the
Language Section, IMTFE.)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: All the accused are present
4 except SHIRATORI and HIRANUMA. We have certificates
5 from the prison surgeon of Sugamo to the effect that
6 they are ill and unable to attend the trial today. The
7 certificates will be recorded and filed.

8 Mr. Chief of Counsel.

9

- - -

10 K O I C H I K I D O, an accused, resumed the stand
11 and testified through Japanese interpreters as
12 follows:

13 CROSS-EXAMINATION

14 BY MR. KEENAN (Continued):

15 Q Paragraph 115 on page 90 of your testimony,
16 the last part of that paragraph you used the expression,
17 "If the Army and the Navy come into a frontal clash, it
18 was easily imagined that the Army or the Navy would have
19 staged its favorite coup d'etat and assassinated the
20 Senior Statesmen close to the Throne and leaders of the
21 Government." You are discussing matters transpiring
22 during the HIRANUMA Cabinet and referring to the
23 alliance between Germany, Italy and Japan. Are you
24 suggesting in that statement that if there was a clash
25 between the Army and Navy that, regardless of the position

1 that the Senior Statesmen close to the Throne took, they
2 would be assassinated?

3 A I told you yesterday that the Navy was opposed
4 to this plan and that the Army was in great haste over
5 trying to consummate the plan. In view of incidents
6 which had occurred in the past, it was quite foreseeable
7 that attacks against the Senior Statesmen who were
8 in favor of maintaining the status quo should arise.
9 Especially if you will look in my entry of April 14 you
10 will find that the Army was feeling the need of haste
11 and that the rightist elements in the country had
12 joined with the Army and that various movements were
13 going on, and I was very anxious about this turn of
14 events.

15 Q What I am attempting to learn about, Mr, KIDO,
16 is whether you are intending to convey by this language,
17 which I think clearly carries that import, that the
18 Navy was mixed up in this coup d'etat and assassination
19 business. You don't mean to convey that thought, do you?

20 A Among the various reports which I received
21 there were some indicating that there was an element
22 in the Navy which favored action -- which favored violent
23 action as the Army did, but the main element, of course,
24 was the Army. I should like to state that the report
25 I had received was that there was an element in the

1 Navy which, as in the case of the May 15 Incident, was
2 working with the Army rather than for the sole purpose
3 of breaking the status quo, or of simply being in favor
4 of the military alliance.

5 I am afraid I wasn't correctly interpreted.
6 What I said was that there were elements in the Navy
7 which were not in favor of the Three Power Pact but
8 which, in the confusion resulting, would take advantage
9 of that confusion to create disturbances.

10 Q Well, in the 1936 outbreak, February, the
11 Navy was very dependable, was not it, in favor of the
12 enforcement of law and order?

13 A Yes.

14 Q And even offered to take the matter in hand or
15 subdue any lawless elements if necessary, isn't that
16 true?

17 A The Navy did take a very strong attitude.

18 Q Strong attitude for enforcement of law and
19 order, isn't that right?

20 A Yes.

21 Q Would it not be fair to state that the real
22 meaning of your paragraph 115 in your affidavit is that
23 you realized that the Army was insistent upon an
24 alliance with Germany and Italy and you felt if it didn't
25 get its way they might assassinate someone in the high

1 court circles around the Emperor? Isn't that a fair
2 inference to draw from this paragraph?

3 A On the whole, yes.

4 Q And you advance that as a reason why -- one of
5 the reasons -- that is, a strong reason why you were
6 advocating to HIRANUMA, the Premier, to get on with the
7 business and get the Tri-partite Agreement signed?

8 A As I said the other day, as a practical measure
9 I was of the opinion that this problem ought to be
10 settled one way or the other in such a way that it would
11 not cause Great Britain and America to feel unwarranted
12 uneasiness. Otherwise I felt that it would be difficult
13 to maintain law and order in Japan -- uneasiness and
14 suspicion on the part of Great Britain and America.

15 Q You do in this diary use the term "Senior
16 Statesmen." Whom do you refer to particularly as the
17 Senior Statesmen?

18 A I didn't particularly -- I did not mean to
19 indicate a definite category of people. I did not intend
20 to limit their number, but from my own personal feelings
21 I felt that such people as Lord Keeper of the Privy Seal
22 YUASA, Imperial Household Minister MATSUDAIRA, and
23 former Premier Admiral OKADA were those who would be the
24 object of such an attack. Count MIKANO also was often
25 the target of such plots.

1 Q Well, Mr. KIDO, what would be the sense of
2 doing away with these men around the Emperor whom, as
3 you have explained in substance, carried out the de-
4 cisions of his cabinet? Why wouldn't the attack be
5 made upon the members of the cabinet whom, as you
6 claim, were the ones who really governed Japan?

7 A The members of the cabinet were also fre-
8 quently made the object of assassination attacks,
9 especially the Prime Minister. But the characteristic
10 of such assassination plots in Japan, as well as the
11 thought of the assassins, was always to regard
12 those close to the throne with suspicion and to try
13 to gain those positions close to the throne for them-
14 selves.

15 Q Did you have a conversation with Baron HARADA
16 on or about 22 April 1939?

17 A I do not recall at the present moment.

18 Q Did you have a conversation on that date to
19 the effect and substance that you intended to see that
20 contact was made with Hitler through Ambassador OSHIMA
21 and not to have the Premier do it directly?

22 A It is not in my recollection.

23 Q You mean it isn't in your recollection that
24 you had such a conversation, or are you telling us that
25 you have no recollection of making the suggestion that

1 you were going to have OSHIMA contact Hitler directly
2 and not through the Premier?

3 A Neither of the two are in my memory.

4 Q And did you not say: "If this method does
5 not work the cabinet will resign"?

6 A That, too, I do not recall.

7 Q And did you not repeat: "Therefore it was
8 necessary to consider the aftermath of a change in
9 cabinet. Ultimately they reach the point where Method
10 B will be used if Method A does not succeed. This
11 will be done instead of trying to change the ideas of
12 the Emperor or the opinions of the Lord Keeper of the
13 Privy Seal." Did you say that?

14 A It is not in my memory at all. My own
15 recollection of the matter is that around this time
16 the indications that the cabinet might collapse were
17 very prominent, and, therefore, I met the Lord Keeper
18 of the Privy Seal, YUASA, and told him that it might
19 be that the cabinet will fall. "In that case I hope
20 you will consider steps to be taken." This is recorded
21 in my diary.

22 Q Did you say: "You should explain to the
23 Emperor that the resignation of the cabinet might
24 result if the Emperor did not give his sanction,
25 and matters were advanced along the former lines if

1 the other party did not agree"?

2 A I don't recall having had any conversation
3 with HARADA along those lines.

4 Q Did you say to the Lord Keeper of the Privy
5 Seal that such a threat-like statement to the Emperor
6 was inexcusable?

7 A I am afraid I could not understand your
8 meaning. May I have it repeated please?

9 (Whereupon, the question was
10 read by the Japanese court reporter.)

11 A It is not in my memory. It is difficult
12 for me to comprehend what you are driving at, what
13 you are saying.

14 Q I am asking if you had such a conversation
15 as I have stated; if you made the remarks that I
16 quoted to the Lord Keeper of the Privy Seal on or
17 about that date, that is the question.

18 A It is not in my memory.

19 Q Turning back for just a moment to your affi-
20 davit wherein you stated that ITAGAKI was popular
21 with the Chinese people. Do you recall having said
22 that?

23 A Yes, I do.

24 Q Were you aware that on or about August 31,
25 1934, as shown by exhibit 3177-A, the special organ

1 of the Kwantung Army, a special services branch, sent
2 word through channels to the Vice-Minister, I quote:
3 "The very mention of the names of Major-Generals
4 DOHIHARA and ITAGAKI, is enough to make the people
5 turn pale in South China"?

6 A I heard of that for the first time when that
7 document was presented before this Tribunal.
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1 Q It came from the official records of the
2 Japanese Government, did it not?

3 A That I do not know.

4 Q Do you recall, on or about the 20th of October,
5 1940, that HARADA told you that Prince SAIONJI was
6 suspicious of how you and KONOYE had explained the
7 Tripartite Pact to the Emperor and secured his consent
8 when the Emperor had explicitly stressed that he abso-
9 lutely would not permit the Tripartite Pact?

10 A I don't remember at all. Furthermore, that is
11 completely contrary to the facts.

12 Q Did not HARADA say to you on that day, "Why
13 didn't you tell us about it," referring to the Tripartite,
14 "I would not be saying this to you if the Prince (SAIONJI)
15 were afflicted with defects such as muddleheadedness,
16 illness, or want of perspicacity. However, under pre-
17 sent circumstances, there is no other issue as serious
18 as this affecting the nation's fate; it is regrettable
19 that not a word about this matter was reported to Prince
20 SAIONJI."

21 A I never heard such a statement.

22 Q And did you not reply, "I felt too sorry for
23 Prince SAIONJI to report the matter to him." And did
24 not HARADA reply to you, "This is not a matter in which
25 considerations should be given to such private

1 sentiments. Facts are facts. Regardless of how great
2 the Prince's opposition may be and regardless of how
3 sorry you might feel, what must be said must be said.
4 This is your duty to His Majesty." And did you not
5 reply, "Hereafter, I will try to inform him about all
6 relevant matters."

7 A That conversation is not in my recollection
8 at all. And, furthermore, I don't ever recall having
9 had a conversation of such a violent nature with HARADA;
10 what you might almost call a dispute. At the time,
11 of course, I believed that the government had approached
12 Prince SAIONJI on the matter, and since it was a big
13 political question, I did not feel it was necessary
14 for me to reply to it one by one. I did not feel it
15 was necessary for me to tell Prince SAIONJI of every-
16 thing concerned in this question. I felt that it was
17 more appropriate for the government to tell the Prince
18 than for me as Lord Keeper of the Privy Seal.

19 Q When you are talking about the government,
20 to whom do you refer; what person or persons?

21 A The Prime Minister.

22 Q Hadn't you consistently discussed policy matters
23 with HARADA for the purpose of his reporting the same
24 to Prince SAIONJI?
25

A Every time I had the opportunity, yes. But by

1 that time HARADA was not in good health and the number
2 of occasions on which I was able to talk with him had
3 decreased to a great extent.

4 Q Are you talking now about HARADA or Prince
5 SAIONJI?

6 A About HARADA.

7 Q You think this might have been one of the occa-
8 sions when Baron HARADA became very sleepy and tired
9 while talking to you?

10 A Well, I have no recollection of having had
11 this conversation with him. But it is true that at
12 the time HARADA's health in those respects was
13 deteriorating. In fact, I even joked with HARADA about
14 which would last longer, HARADA or SAIONJI.

15 Q You thought that was a matter of humor?

16 A I merely said that because I felt that you
17 would be able to understand how his state was at the
18 time. Generally speaking, at the time HARADA was
19 living at Oiso. Therefore, he didn't have many occa-
20 sions to come to Tokyo and, therefore, I did not have
21 many opportunities to talk with him.

22 Q On the 20th of October, or, say, the latter
23 part of October, 1940, had you still confidence in the
24 integrity of HARADA anyway?

25 A HARADA had a very good sense for politics, and

1 in that connection, of course, I was always able to
2 talk with him. But as I said before, when the talk
3 extended over any period of time, sometimes I wondered
4 whether he was keeping up his interest in what I was
5 saying.

6 Q Well, Mr. KIDO, I am asking you as to whether
7 or not you had confidence in the integrity, in the
8 honesty, of HARADA in October of 1940?

9 A Yes, of course I trusted him.

10 Q Did he exhibit any signs of losing his mind
11 at that time?

12 A No, he showed no signs of going out of his
13 mind.

14 Q And you would not contend that he would write
15 such a statement about a conversation with you mali-
16 ciously, would you?

17 A I could scarcely feel that he had any malicious
18 thoughts towards myself. But neither can I believe
19 that he wrote down everything I said just as I said it.
20 And that is why, in regard to the matter which we are
21 discussing now, I was always opposed to it from the
22 beginning, and I have told both KONOYE and MATSUOKA
23 of this. I won't state my reasons for opposing the
24 alliance, because they are given in my affidavit. But
25 that part, the feeling which I had of opposition toward

1 this alliance, does not appear in what you have read
2 at all, and the fact that this whole conversation
3 reads as if I was completely in favor of this Alliance
4 makes me feel that HARADA must have left a great deal
5 out of our conversation.

6 Q Did you discuss the matter of the Tripartite
7 Alliance with the Emperor of Japan before it was
8 executed?

9 A Yes, I have.
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1 Q There was no question, was there, Mr. KIDO,
2 that it was permissible for the Emperor of Japan to
3 instruct the administration as to the outline of
4 foreign policy of Japan? That is admitted by you, is
5 it not?

6 A Of course it was possible for the Emperor
7 to give his own opinions.

8 Q Did you not say to Baron HARADA, on or
9 about the 5th day of September, 1940: "It is, of
10 course, permissible for his Majesty to instruct the
11 administration as to the outline of the foreign policy.
12 However, it is not desirable that criticisms of per-
13 sonalities be made"? Didn't you tell Baron HARADA
14 that you made that statement to the Emperor that I
15 have just quoted?

16 A That, too, is not in my recollection.

17 Q Well, what do you say as to the fact in your
18 present recollection? Would that be a correct state-
19 ment if you made it as it is so reported in the
20 SAIONJI diary?

21 A I have no such recollection. Furthermore, I
22 have no recollection of ever having advised the Emperor
23 on the question of personnel, and therefore you must be
24 under some misapprehension.

25 Q What is the fact as you understood the power

1 of the Emperor to be, that is, his practical power:
2 was it permissible for the Emperor to instruct the
3 administration as to the outline of foreign policy?

4 A Yes, he can.

5 Q And I understand that the Emperor was fully
6 informed of the terms of the Tripartite and the
7 reasons advanced in favor of its being adopted by
8 you before it did become effective?

9 A Not from me. I believe the government told
10 him of this. It must have been around the 12th of
11 September that Prince KONOYE came to the palace, and
12 for the first time I heard of this matter. I believe
13 that the Prime Minister told the Emperor, reported
14 to the Emperor on this matter at the time.

15 Q I notice that you recall the date of the
16 12th of September. You do not have any notes before
17 you when you do that, do you?

18 A No, nothing at all (indicating).

19 Q Can you explain to us why your memory is so
20 acute on such matters, and why you are unable to
21 remember other matters; for instance, any of the four
22 points of the proffered settlement to Chiang Kai-shek
23 in 1937, December?

24 A Well, that is because whatever was written
25 in my own diary I have kept the main points at hand,

1 and in anticipation of being examined on the
2 stand and in order to be able to reply as accurately as
3 possible, I have been consulting those points up to now.
4 But the four peace terms of which you have been speak-
5 ing I did not have at hand, and I am sorry that be-
6 cause of that I was unable to recall them.

7 Q It wouldn't be true, Mr. KIDO, that you
8 have great difficulty in recalling those things that
9 are very unpleasant now to bring to mind?

10 A No, not so. I only want to say that what-
11 ever is written in my diary I have kept at hand, and
12 so those things I am able to remember very well.

13 Q Do you recall that the matter of the Anti-
14 Comintern Pact and its secret provisions was taken up
15 with the Emperor of Japan?

16 A To what pact are you referring, to the pact
17 concluded in what year?

18 Q I am referring to the pact that was con-
19 cluded that contained the secret portion; namely, that
20 the treaty would only be applicable to the comintern;
21 in other words, to Soviet Russia alone. Do you know
22 what I am talking about now?

23 A I can't say anything because I don't know the
24 provisions itself.

25 Q Well, you recall having a conversation with

1 Baron HARADA on or about the 20th of April, 1939,
2 in which you said the following: "Although the main
3 part of the Anti-Comintern Pact had already received
4 Imperial sanction, the army wants to omit the part of
5 the secret treaty, namely, the attached secret treaty
6 which says that the treaty is only applicable to the
7 comintern; in other words, to Soviet Russia. However,
8 the Emperor will not hear of it. Therefore, with the
9 applicability of the treaty the army should arrange it
10 so that we will not be involved in case Germany and
11 Italy ever fought against England or France or other
12 nations." Do you recall making that statement?

13 A That is not in my recollection.

14 Q Coming to the formation of the second KONOYE
15 Cabinet, were you in or out of government position
16 at that time?

17 A I was Lord Keeper of the Privy Seal.
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1 Q And, did you not learn as early as the month
2 of May that there probably would be a change in the
3 cabinet and that a new premier would be chosen?

4 A From those days, the rumors that a political
5 change was about to take place were very strong.

6 I should like to give a brief explanation
7 of the atmosphere of those days.

8 Q I'd rather you wouldn't unless it is
9 absolutely essential.

10 I just want to know a few facts about it,
11 and I'd like to ask you if you gave any advice to
12 Prince KONOYE as to whether or not he should resign
13 the position which he then held.

14 A I have no recollection of having advised
15 him to resign. Resign from what position, by the
16 way?

17 Q Well, can you tell us what position KONOYE
18 had before he became Premier, just before he became
19 Premier the second time?

20 A He was President of the Privy Council.

21 Q And, I understand that you deny that you
22 suggested to him that he resign from that position
23 later in the month of June, 1940.

24 A My recollection is that I advised him not
25 to resign. In spite of my advice, Prince KONOYE

1 strongly said that in order to establish a new
2 political structure it was most inconvenient for him
3 to continue as President of the Privy Council and
4 that therefore he would resign.

5 Q The new political structure that you are
6 talking about eventually became, or was, the Imperial
7 Rule Assistance Association. Is that what you are
8 talking about?

9 A Yes. But, of course, the ultimate organization
10 as made was quite -- slightly different from Prince
11 KONOYE's original purpose..

12 Q Yes. Now, you strongly recommended Prince
13 KONOYE as Premier for the Second KONOYE Cabinet, did
14 you not?

15 A I urged the appointment of Prince KONOYE as
16 Premier, but at the Council of Senior Statesmen, which
17 had met to recommend the new prime minister, all the
18 Senior Statesmen were equally strong to urge Prince
19 KONOYE.

20 Q Yes, you told us about that before.

21 Now, you knew that many important and crit-
22 ical matters were arising that would effect the future
23 history of Japan at that time, didn't you?

24 A Yes.

25 Q And, did you not consider it important to

1 put a man in as premier at that critical time in
2 Japanese history who would be noted for a strong
3 character?

4 A In view of the various circumstances of the
5 time, the most desirable choice would have been a
6 person with a strong character who was in such a
7 position, who was like Prince KONOYE, but such a man
8 was very difficult to find. I should like to add
9 that although I did say that Prince KONOYE had a
10 weak character that is a matter of comparison. On
11 the other hand, Prince KONOYE did have a certain
12 characteristic which no other person possessed. That
13 was his political insight -- his keen political in-
14 sight and also the fact that he was able to embrace
15 a wide sphere of people.
16

17 And, that was why among those in the polit-
18 ical world and in the business world, the appointment
19 of Prince KONOYE as Premier was widely urged, and
20 indeed people even felt that by the appointment of
21 Prince KONOYE a new world might emerge -- might be
22 hoped for -- was hoped for.
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1 THE PRESIDENT: I think we are all agreed
2 that this phase, the qualities of Prince KONOYE, has
3 been sufficiently covered.

4 Q I would suggest to you, Mr. KIDO, that the
5 real reason that you advocated KONOYE was that it
6 would be a convenient method for you behind the
7 scenes to take charge and direct the policies of the
8 Government of Japan in the way that you saw fit
9 yourself. Is that not true?

10 A That is utterly fantastic. The Lord Keeper
11 of the Privy Seal does not have the power to conduct
12 politics behind the scenes. If that is the way you
13 think about the circumstances in which Prince KONOYE
14 was finally appointed Prime Minister, I feel I ought
15 to explain about the situation, political situation,
16 then prevailing.

17 Q What about the importance of the War Minister
18 at that time? Was that of diminishing importance
19 or increasing importance?

20 A I did not notice any particular change.

21 Q Did you know who recommended TOJO for the
22 position as War Minister?

23 A It is my understanding that the Army
24 recommended General TOJO through the Three Big Chiefs.
25

 Q Were you kept reasonably acquainted with the

development of the negotiations or conversations
that took place in 1941?

A Do you mean with America?

Q With the course of these negotiations; what
was going on.

A On the broad general outlines, I heard
from the Prime Minister, but I did not see the
specific -- the documents giving the specific details.

Q When were you first apprised of the fact
that the impasse had occurred requiring the resignation
of KONOYE?

A Do you mean the Second KONOYE Cabinet?

Q I mean the last KONOYE Cabinet, the third one.

A I believe it was around the 15th of October.

Q When the Second KONOYE Cabinet changed to
the Third KONOYE Cabinet, did it involve anything
more than changing the Foreign Minister from MATSUOKA
to Admiral TOYODA?

A I don't recall for sure, but I feel that a
few other ministers were also changed.

Q Well, if they were, they weren't important
enough for you to recall now, is that right?

A Yes, as you say.

Q And the real reason that MATSUOKA left the
cabinet was because he wanted to -- he was advocating

1 a very positive policy leading towards war with
2 the Western Powers, isn't that true?

3 A I don't know MATSUOKA's thoughts towards
4 war or anything of that nature, but the immediate
5 cause of the collapse of the cabinet was the
6 difference in opinion between Foreign Minister
7 MATSUOKA and Prime Minister KONOYE over the handling
8 of the American negotiations.

9 THE PRESIDENT: We will recess for fifteen
10 minutes.

11 (Whereupon, at 1045, a recess was
12 taken until 1105, after which the proceed-
13 ings were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Chief of Counsel.

4 BY MR. KEENAN (Continued):

5 Q The difference of opinion had to do with
6 MATSUOKA favoring a sterner policy and KONOYE suggest-
7 ing a compromise?

8 A No, that is not so. The immediate cause was
9 an oral statement arriving from Secretary of State Hull.
10 A collision between Premier KONOYE and Foreign Minister
11 MATSUOKA occurred in regard to the steps to be taken
12 in replying to this note -- to this statement.

13 Q In any event, KONOYE did not have any diffi-
14 culty in getting rid of MATSUOKA, did he?

15 A He wanted to get rid of MATSUOKA, but he had
16 quite a hard time getting rid of him.

17 Q He could have got rid of TOJO too at the same
18 time if he wanted to, couldn't he?

19 A At ~~that~~ time no such problem existed between
20 Prime Minister KONOYE and TOJO on that point.

21 Q Weren't his views firm toward favoring war
22 unless the Japanese Government got its way? Was that
23 not known to be TOJO's views at the time MATSUOKA left?

24 A My understanding of the matter is that in
25 July the Japan-American negotiations had not yet pro-

1 gressed to such a stage. It was still the period when
2 various drafts were being considered and notes were
3 being exchanged. Since no definite conclusion had yet
4 been reached, the army's attitude as of that time was
5 not as positive as it became later.

6 In August KONOYE advanced a proposal to meet
7 and talk with President Roosevelt himself. Since on
8 that occasion both the army and the navy were in agree-
9 ment with this proposal put forth by Prince KONOYE,
10 I believe there was no problem involving the army in
11 July, when MATSUOKA was replaced.

12 Q Was it not well known at that time that
13 TOJO possessed very aggressive views?

14 A At the time, since the circumstances were as
15 I have just stated, the army also had no special
16 opposition towards trying to solve the China Incident
17 through American help.

18 Q However that may be, you finally did learn
19 that TOJO possessed some very positive views about the
20 course to be taken by Japan in the American negotiations,
21 isn't that true?

22 A Yes, that is so.

23 Q And TOJO's position was so strong and he
24 differed so with KONOYE that he was not able to repress
25 his feelings and he was not able to remain on speaking

1 terms with KONOYE, is that correct?

2 A KONOYE did tell me something of that sort.
3 That was around the very day on which the cabinet
4 collapsed -- resigned.

5 Q However, at that time the navy still held out
6 for peace, isn't that true?

7 A The navy's attitude was rather vague, but
8 its leaders did express the hope that war would be
9 avoided as far as possible.

10 Q Well, you have made continuous reference in
11 your affidavit, too many to repeat, that the thing to
12 seek was accord between the army and the navy at that
13 time. As a matter of fact, could it not be epitomized
14 by saying that the army was insisting upon going to war
15 forthwith and the navy did not want to do that?

16 A The navy's attitude was as I have just stated
17 and it was rather vague, but on the whole, it is as you
18 say.

19 Q Wasn't the situation very like that you des-
20 cribed in paragraph 101 of your affidavit, on page 78,
21 having to do with 9 August 1938, when the matter of the
22 alliance with Germany was up for consideration, that
23 the army took a very strong view in favor of it and the
24 navy was almost equally opposed to it?

25 A There are a few points on which the situation

1 was different. There were a segment of younger
2 officers in the navy who were not opposed to the
3 commencement of war, and the naval general staff also
4 was in favor of war in certain respects.

1 Q But otherwise the situation was very similar,
2 was it not?

3 A Because of that situation prevailing within
4 the navy itself, the attitude of the navy as a whole
5 was not expressed clearly.

6 Q Well, in any event, when there was a difference
7 between the army and navy on the military alliance with
8 Germany, did you not go to KONOYE and express to him
9 that he should obtain the fullest cooperation in the
10 navy and get the navy to hold out against the military
11 alliance, and have you not so testified, in substance,
12 in this paragraph 78 on page 101 of your affidavit?

13 A Yes, I did so testify, but I just added that the
14 actual situation in the latter case was somewhat dif-
15 ferent.

16 Q There couldn't be a war between Japan and the
17 United States if the Navy Minister voted against it,
18 could there?

19 A If the navy had clearly indicated its opposi-
20 tion, the army itself would not have been able to start
21 war.

22 Q They might have assassinated a few people
23 around here in Japan, but they could not have had the
24 war without the navy agreeing, isn't that true?

25 A Yes, that is so.

1 Q And if you encouraged the navy or the Navy
2 Minister to hold out for peace, you might have been one
3 of the intended victim?

4 A Well, I couldn't say anything about that.

5 Q Did that influence you in the course of conduct
6 you took in recommending the Prime Minister to the
7 Emperor to replace KONOYE, the last time?

8 A I was not influenced by any such consideration.

9 C So that, whatever action you took, you are not
10 pleading duress to this Court?

11 A No.

12 Q You knew on the 15th of October 1941 that TOJO
13 had definitely decided to employ all of his power and
14 influence to go to war with the United States, Great
15 Britain and the Netherlands, unless the terms upon
16 which he insisted were encompassed -- were included in
17 an agreement to be reached with the United States of
18 America and these other Western Powers I have named?

19 A At the time, TOJO was advocating the execution
20 of the decision of September 6, reached at the Imperial
21 Conference on that date.

22 Q And the issue of war and peace was immediately
23 at hand on the 15th of October 1941, was it not?

24 A Yes.

25 Q Had the Emperor seen fit, he could have

1 appointed Admiral OIKAWA, the Navy Minister, Prime
2 Minister, could he not?

3 A Maybe he could have, but at the meeting of
4 Senior Statesmen, called to recommend the succeeding
5 Prime Minister, the Navy Minister, OIKAWA, encountered
6 strong opposition on the part of the Senior Statesmen
7 who had been in the navy, namely, Admiral YONAI and
8 Admiral OKADA.

9 Q There would have been a much better chance for
10 preserving peace, that is, in the sense of a war de-
11 cided upon by the cabinet and the Emperor, by choosing
12 Admiral OIKAWA, would there not?

13 A I don't think so.

14 Q You could not have found a much more belligerent
15 individual in the entire Empire of Japan than TOJO on
16 the 15th of October 1941, could you?

17 A I don't think that criticism is just.
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1 Q As I understand your testimony, you are
2 suggesting that you hoped that TOJO would change his
3 views if the Emperor indicated he so desired; is that
4 part of your testimony?

5 A Yes.

6 Q And you reason in this fashion, that the
7 real reason why TOJO was so anxious to go to war was
8 to carry out the decision of the Emperor that was
9 arrived at on the 6th day of September 1941?

10 A Yes, in other words, at that time the date
11 set in the Imperial Conference decision of September 6,
12 namely, the early part of October, had already elapsed
13 and therefore the army was anxious to carry the
14 decision into effect. At that time TOJO had talked
15 with KONOYE and I also talked with him on the 16th.
16 The impression I gained from my conversation with TOJO,
17 and Prince KONOYE told me that he had also gained the
18 same impression, was that the army's attitude was that
19 if the navy was definitely opposed to war a war could
20 not be fought, but as for the army, it believed that
21 the decision of September 6 should be faithfully carried
22 out.

23 Q When you say army, you mean TOJO, don't you?

24 A Well, since TOJO was representing the army
25 I suppose you could say that.

1 Q You just suppose that?

2 A That is the way it would be.

3 Q Didn't you well know at that time that the
4 Imperial Conference of 6 September 1941 was brought
5 about mainly at the insistence of TOJO, the War
6 Minister?

7 A I have heard nothing about that.

8 Q Do you know now?

9 A No, not even now.

10 Q And you never knew how the Imperial Confer-
11 ence of September 6, 1941 happened to occur; you
12 didn't know at whose instance it was brought about?

13 A Yes, as is written in my affidavit, this
14 conference was decided on very suddenly and I
15 reproached KONOYE about this.

16 Q If you don't know who brought it about,
17 you certainly know what the prime question that was
18 being discussed there was. You knew that, too,
19 October 15, 1941, didn't you?

20 A I knew of the three main points.

21 Q You do remember those three points?

22 A Yes.

23 Q The short of it is that Japan was getting
24 ready to make up its mind whether or not it was going
25 to war with the United States, Great Britain and the

1 Netherlands and what terms it would require to
2 refrain from starting such a war; that was the
3 purpose of that Imperial Conference in September,
4 wasn't it?

5 A In short, what was decided there was that
6 the Japanese-American negotiations which had been
7 carried on for some time past should be vigorously
8 continued but if by a certain date a successful
9 conclusion was not reached war would be begun.

10 Q And that date was the forepart of October,
11 was it?

12 A That is, if prospects of a successful
13 conclusion were not seen by the 15th of October --
14 by the early part of October.

15 Q Did the Emperor of Japan really have anything
16 to do with that decision reached at the Imperial
17 Conference that you have just described?

18 A The Emperor thought it was a very bad thing
19 when Premier KONOYE told him of this.

20 Q No, what I am asking you is this: Was that
21 decision of that Imperial Conference really, in
22 reality, the decision of the Emperor of Japan or
23 merely a formal acquiescence on his part to something
24 that had been decided by others? Is that clear? Is
25 my question clear to you?

1 A As is clear from what I told you regarding
2 the Emperor's powers some days ago, the Emperor was
3 not in a position to refuse any policy on which the
4 Government and the High Command had decided and so,
5 therefore, he could do nothing but approve.

6 Q All right. Then the answer is that that
7 was not really the decision of the Emperor at all;
8 it was a decision that was formally made in his name
9 but made by other people; isn't that perfectly plain?

10 A In plain language, yes.

11 Q So, now you are telling us in your affidavit
12 that you believed that TOJO on the 15th of October
13 1941 would change his mind because he was so intent
14 upon carrying out the wishes of the Emperor but if the
15 Emperor came to another conclusion he would be equally
16 amenable to instructions -- to follow out that latter
17 conclusion; is that your statement to this Court?

18 A What I felt in regard to TOJO was that if
19 the Emperor told him to do something he would faith-
20 fully obey. In order that there be no misunderstanding,
21 I should like to state this much. Once TOJO had be-
22 come Prime Minister, when the Emperor stated his
23 desires those desires would be taken up by the cabinet
24 as a whole and studied there and TOJO would report
25 the results of that study to the Throne. It would not

1 be on a personal basis but he would be speaking in
2 his capacity as representative of the government.

3 Q Isn't that more in the nature of double talk
4 and, in truth and in fact, didn't you well realize
5 that when you helped TOJO reach the position of Prime
6 Minister in the middle of October 1941 you were placing
7 within his hands the decision as to whether or not
8 there would be war or peace with the Western powers?

9 A No.

10 THE PRESIDENT: This morning you told us, if
11 I apprehended rightly, that the Emperor could instruct
12 his ministers on the outline of foreign policy. Did
13 "foreign policy," as you use the term, include ques-
14 tions of peace and war?

15 THE WITNESS: Yes, that question was also
16 included. May I be permitted to say, however, that
17 although I do not know exactly what impression the
18 word "instruct" would give here, what I meant to say
19 is that the Emperor would give his views, his opinion,
20 to the cabinet and the cabinet on its own responsibil-
21 ity would undertake the study and investigation of those
22 views.

23 What I wanted to say was that the Emperor
24 would disclose his views to the cabinet and it would
25 be for the cabinet to undertake on its own

1 responsibility the study of those views--problems.

2 Q As I understand you, one of the prime
3 reasons why TOJO was selected as Prime Minister by
4 you or by your advice, that part that you did take
5 in the proceeding, was so that you would be sure to
6 have the army under firm control; isn't that true?

7 A That was one reason.

8 Q Couldn't he control the army just as well
9 as War Minister as he could as Prime Minister?

10 A That point needs some explanation.

11 Q I hope that you can do it briefly.

12 A The situation at that time was that there
13 was the decision of the Imperial Conference which
14 was a kind of cancer. Now, as to this Imperial
15 Conference of September 6, it was not even reported
16 to the world at large that this conference was held.
17 Since that was the actual situation, if someone were
18 appointed Prime Minister who knew nothing about that
19 conference, it would be very difficult for him to
20 change the decision arrived at there. Since the field
21 grade and junior grade officers of the army knew of
22 that decision, if that decision were disregarded
23 there would be disturbance, and in the final analysis
24 the question of the Imperial Conference decision would
25 be bound to come up. Since that was the actual

1 situation it was impossible to choose the Prime
2 Minister from among a wide range of prospects. I
3 spent much time worrying over this problem and I
4 also consulted with KONOYE about it, and as a result
5 of this contemplation we arrived at the conclusion that
6 the Imperial Conference decision of September 6 had
7 to be changed, it had to be set aside, and from that
8 we came to the conclusion that the succeeding Prime
9 Minister must be either OIKAWA or TOJO.

10 Q I asked you the question of whether or not
11 TOJO as War Minister couldn't have controlled the
12 army equally as well as he could have as Prime Minister?

13 A Of course, TOJO would control the army in his
14 capacity as War Minister.

15 Q And it was your belief, was it not, at that
16 time that a war between Japan and the Western powers --
17 and I am using the precise words you have used in your
18 affidavit -- "would be catastrophic"?

19 A Yes.

20 Q And the meaning of that word is "disaster"
21 and "the end"?

22 A Yes.

23 Q And are you maintaining now that it was your
24 firm belief that there was a better chance to keep
25 Japan from entering into an authorized war, war

1 authorized by the cabinet, in the selection of
2 TOJO as a Prime Minister than through the selection
3 of OIKAWA?

4 THE MONITOR: Japanese court reporter,
5 the witness asked that that question be repeated.

6 (Whereupon, the Japanese court
7 reporter read.)

8 A I had a very difficult time deciding which
9 of the two would be better but my greatest fear was
10 that in the final analysis the most important question
11 was the control of the army. If the army became out
12 of control, war would be bound to result in some form
13 or another, whatever other policies might be decided
14 on, and that was because the focus of the problem lay
15 in the decision to rehash the Imperial Conference
16 decision of September 6; but when I attended the
17 council of Senior Statesmen I had not succeeded in
18 making up my mind and in this council of Senior
19 Statesmen opinions were voiced that TOJO had dis-
20 agreed with the outgoing Premier, KONOYE, and there-
21 fore I said, speaking in theory, OIKAWA would be
22 better fitted to be the next Prime Minister. But to
23 this opinion very strong opposition was voiced by the
24 two Senior Statesmen who had formerly been in the
25 navy, whom I mentioned before, and in view of those

1 circumstances we had no alternative but to choose
2 TOJO as Prime Minister. That is the fact of the
3 situation.

4 Q This question I want to put to you: Were
5 you of the belief that if the Emperor of Japan,
6 just before TOJO was named Prime Minister, had called
7 into his presence TOJO, SUGIYAMA, UMEZU, HATA and
8 TERAUCHI, and had said to these men, his subjects,
9 and some of them his friends, "I do not want war
10 under any circumstances and I want you to control
11 the army to see that there is no outbreak on that
12 account," do you not believe that these men that I
13 have named would have been able to control all fac-
14 tions of the army and to have prevented any rebellion?

15 THE PRESIDENT: That question will not be
16 answered before lunch. We will postpone any objec-
17 tions you are about to make until after lunch. We
18 will adjourn now until half-past one.

19 (Whereupon, at 1200, a recess was taken.)
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AFTERNOON SESSION

1 The Tribunal met, pursuant to recess, at 1330.

2 MARSHAL OF THE COURT: The International
3 Military Tribunal for the Far East is now in session.
4

5 - - -

6 K O I C H I K I D O, an accused, resumed the stand
7 and testified through Japanese interpreters as
8 follows:
9

CROSS-EXAMINATION

10 THE PRESIDENT: Mr. Logan.

11 MR. LOGAN: If the Tribunal please, may we
12 have the stenographer read back that question so
13 that we will understand what it is?
14

15 (Whereupon, the question was read
16 back by the official court reporter as fol-
17 lows: "This question I want to put to you:
18 Were you of the belief that if the Emperor of
19 Japan, just before TOJO was named Prime
20 Minister, had called into his presence TOJO,
21 SUGIYAMA, UMEZU, HATA and TERAUCHI, and had
22 said to these men, his subjects and some of
23 them his friends: 'I do not want war under
24 any circumstances, and I want you to control
25 the Army to see that there is no outbreak on

1 that account', do you not believe that these
2 men that I have named would have been able to
3 control all factions of the Army and to have
4 prevented any rebellion?"

5 MR. LOGAN: I can think of no better objection
6 to that, if the Tribunal please, than it is delving
7 in the realms of speculation to the nth degree.

8 MR. KEENAN: Would the Court care to hear
9 from the prosecution?

10 We believe this question is admissible as
11 affecting the state of mind of this accused. We con-
12 tend that an examination of this witness' affidavit
13 at this particular time, of the statements made con-
14 cerning this particular period will show that he
15 urges as an excuse for his part in recommending or
16 choosing TOJO as Premier that there was an alternative,
17 namely, civil war. In other words, his contention is
18 that he saw clearly from the conditions that unless the
19 Army had its way, which was to go to war, that there
20 would be a rebellion here in Japan brought about by
21 Army outbreaks. We contend that even that wouldn't
22 be a sufficient excuse if the choice were between a
23 rebellion here in Japan or in loosening war upon the
24 world.
25

THE PRESIDENT: His beliefs as to an actual

1 state of things would be relevant, but his beliefs
2 as to a hypothetical state of things may not be.

3 However, it appears a majority of the Court
4 would like the question to be answered. Answer the
5 question please, Witness.

6 THE WITNESS: Due to the fact that question
7 is based on many hypothetical problems I find it very
8 difficult to answer that question.

9 I have already stated that there was no other
10 course open to me other than the one that I had taken.
11 I cannot answer with any degree of confidence that
12 the assembling of several generals would have any
13 effect on attaining the object.

14 BY MR. KEENAN (Continued):

15 Q Coming to the 8th day of December 1941, your
16 time here, I understand that you received a telephone
17 call from Foreign Minister TOGO at 12:40 a.m. saying
18 that Ambassador Grew had brought a personal telegram
19 from President Roosevelt to the Emperor and asking your
20 advice about handling it, and that you did advise him
21 to deliberate, or meet, or discuss the matter with the
22 Premier, and that you informed him that as far as an
23 audience with the Emperor was concerned that would be
24 granted even at midnight. And at 1:30 in the morning
25 MATSUDAIRA, Minister of the Imperial Household, called

1 you on the telephone about this same matter. You
2 were then notified that Foreign Minister TOGO had
3 proceeded to the Imperial Palace, and you proceeded
4 to the Palace at 2:40 a.m. and had a talk with Foreign
5 Minister TOGO at the Palace and returned home at
6 3:30 a.m.

7 Did you find out what was in the telegram?

8 A No, I did not hear that.

9 Q Did you attempt to find out what was in the
10 telegram?

11 A When I was talking with Foreign Minister
12 TOGO the chamberlain told me that the Emperor had
13 already come out. Therefore, TOGO immediately left
14 my presence and went to be received in audience by
15 the Emperor. On that day I had no further opportunity
16 to meet and talk to Foreign Minister TOGO, and I was
17 unable to learn anything from him.

18 Q I will ask you again: Did you attempt to
19 find out what was in the telegram from the Foreign
20 Minister?

21 A Yes, I did speak to him. I was about to ask
22 him; I was trying to get the details from him.

23 Q Did he tell you what it was, what the message
24 was?

25 A He was about to tell me when he was called
into audience by the Emperor.

~~Q~~ What did you go over to the Imperial Palace for?

1 A Since the problem was of such a critical nature
2 I thought that I should be at the Palace in the event
3 there should be any words or instructions from the
4 Emperor -- inquiries from the Emperor.

5 Q Did TOGO bring the telegram in to the Emperor?

6 A I believe he did.

7 Q Do you know?

8 A I do not know whether he actually had the tele-
9 gram in his possession or not.

10 Q You state in your diary of December 8, exhibit
11 1239, "I also proceeded to the Palace at 2:40 a.m."
12 Does that mean that you arrived at the Palace at 2:40 a.m.
13 or that you left your home at that hour, if you know?

14 A I recall that -- I believe it was the time
15 that I arrived at the Palace.

16 Q By the way, I assume that you -- did you go by
17 automobile?

18 A Yes, I did.

19 Q How long a drive was it from your house to the
20 Imperial Palace?

21 A About ten minutes.

22 Q Was the Foreign Minister there when you got there?

23 A I do not remember that point very clearly, but
24 I believe he came after I arrived there, but of course
25

1 I do not remember this distinctly, I have no accurate
2 recollection.

3 Q On an occasion of that type you are telling
4 the Court that you don't remember whether TOGO was there
5 at the time you got there or whether you had to wait
6 for him to come?

7 A I have no definite recollection.

8 Q How long did you stay at the Imperial Palace
9 that time?

10 A About -- I believe it was about ten or fifteen
11 minutes.

12 Q Well, if you got there at 2:40 in the morning
13 and you arrived home at 3:30 in the morning and it
14 took about ten minutes to drive home, you would have been
15 there almost forty minutes, wouldn't you?

16 A I don't know that I stayed that long, but I
17 believe I wrote in my diary that I arrived home at 3:30.

18 Q Did you go directly home?

19 A Yes, I went directly home.

20 Q How long did you talk to TOGO?

21 A Only a minute or two. The Emperor was
22 practically waiting for the Foreign Minister to arrive
23 and received him in audience.

24 Q Didn't you want to be present too at that very
25 important moment in Japanese history?

1 A Ordinarily I am not -- I was not allowed to
2 be present at such audiences.

3 Q Well, wasn't this a very special occasion?

4 A Yes, I suppose it can be called a very special
5 occasion, but I did not particularly request the
6 Emperor's permission to attend.

7 Q Why not?

8 A The matter was of a nature that it should be
9 handled by the Foreign Minister and, therefore, I did
10 not especially request that I be permitted to attend.

11 Q Were you sure that the telegram contained some
12 matters that would be proper only for the Foreign
13 Minister to handle? You couldn't be certain about that
14 if you didn't know the contents of it, could you?

15 A At any rate there has never been a time when I
16 was received in audience together with any minister of
17 state reporting to the Emperor on matters under their
18 jurisdiction. Therefore, I did not do so at this par-
19 ticular time also.

20 Q Well, there never was an instance like it before
21 in the modern history of Japan, was there?

22 A As far as I know there was not.

23 Q It must have been a tremendously important
24 thing to have the Emperor of Japan interviewed at half
25 past two to three o'clock in the morning. You knew that,

1 didn't you?

2 A Yes, the matter was very important and that is
3 the reason why I proceeded to the Palace to await any
4 inquiries from the Emperor.

5 Q Indeed, you already said that the audience could
6 be arranged at midnight with the Emperor. That was
7 very unusual, wasn't it?

8 A Yes, it was very unusual.

9 Q Didn't you at least strongly suspect that this
10 message coming had to do with some strong or desperate
11 measure to preserve peace between the two nations?
12 Didn't you even suspect that?

13 A Of course, I was very much concerned in what it
14 was all about.

15 Q That is not quite an answer to my question. In
16 fact, it isn't an answer to it at all. Will you please
17 answer the question?

18 A May I have it repeated once more? I thought I
19 had answered the question.

20 Q Please repeat the question in English and
21 Japanese.
22

23 (Whereupon, the question was read by
24 the official court reporter as follows: "Didn't
25 you at least strongly suspect that this message
had to do with some strong or desperate measure

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1 to preserve peace between the two nations?"

2 Didn't you even suspect that?)

3 A I felt that it was something very important.

4 Q Didn't you suspect that there was a desperate
5 effort being made to prevent war from breaking out
6 immediately, and weren't you as an active champion of
7 peace very much interested in aiding in any such com-
8 mendable effort?

9 A Yes, I was quite concerned about it.

10 Q Why didn't you wait until the accused TOGO
11 got through talking to the Emperor and talk it over with
12 him and find out what it was about then, and see if
13 you could help?

14 A Since I was in my own room I was unaware that
15 TOGO had retired from the presence of the Emperor and
16 had gone home. Therefore, I waited for awhile, expect-
17 ing instructions from the Emperor, but I learned from
18 the chamberlain that the Emperor also had retired, and
19 therefore I went home.

20 Q And therefore you were left out in the cold,
21 figuratively?

22 A It is just that I had failed to grasp the
23 opportunity to do so.

24 Q You were certainly in bad luck that morning
25 because you just missed the few minutes that would be

1 necessary to have been informed by TOGO about the con-
2 tents of the telegram, and I suppose you just missed
3 TOGO on his way up. Is that it?

4 A Yes, I suppose that is so in the long run.

5 Q You couldn't wake the Emperor up, but did it
6 occur to you to telephone to TOGO after you got home and
7 find out what the news was?

8 A No, I did not do so.

9 Q Is not your whole story absurd and a deliberate
10 falsehood, and didn't you know all about the contents
11 of the telegram even before you got to the Imperial
12 Palace?

13 A I did not know of the contents.

14 Q Weren't you curious enough to bother to telephone
15 to TOGO when you got home and find out what the score
16 was, even though it concerned such an insignificant
17 matter, perhaps, as peace or war?

18 A It is a fact I did not telephone TOGO.

19 Q Well, I am asking you if it was a fact because
20 you purposely didn't telephone him or it didn't occur to
21 you?

22 A It did not occur to me to do so.

23 Q Do you know what was going on over in the
24 Hawaiian area at the time you were in the palace some-
25 time between 2:40 a. m. and 3:30 a. m., on the 8th day

of December?

1 A I did not know.

2 Q Do you know now that the attack on Pearl
3 Harbor took place at approximately 3:20 a. m., Tokyo
4 time, that morning?

5 A Yes, I do know at the present.

6 Q But that was a sheer coincidence that you were
7 over at the palace just about the time of that attack
8 and for a few minutes afterwards? I am suggesting to
9 you, was it a fact that there was a little gathering
10 over there to find out how this attack on Pearl Harbor
11 was going?
12

13 A I know nothing at all about that.

14 MR. KEENAN: That is all.

15 MR. LOGAN: If the Tribunal please, I believe
16 some of the other attorneys wish to examine. I under-
17 stand, if the Tribunal please, under the rules the
18 attorney for the witness should redirect before other
19 counsel do; but of course I have no redirect examination,
20 so they may proceed.

21 THE PRESIDENT: Mr. Lazarus.

22 MR. LAZARUS: Just one question, Mr. President.
23
24
25

REDIRECT EXAMINATION

1 BY MR. LAZARUS:

2 Q Marquis KIDO, last Monday when Mr. Keenan
3 asked you if General HATA by his resignation broke up
4 the YONAI Cabinet you said it appeared so. Can you
5 clear that, please?

6 A The situation at that time was that War Minister
7 HATA did not resign of his own volition. That is what
8 I meant to say.

9 MR. LAZARUS: Thank you.

10 THE PRESIDENT: I have a question on behalf
11 of a Member of the Tribunal.

12 At the Conference of the Senior Statesmen on
13 the 17th of October, 1941, in which was discussed the
14 successor to the third KONOYE Cabinet, KIDO stated: "The
15 attitude taken by War Minister TOJO in the present
16 political change is different from that taken by War
17 Minister HATA under the YONAI Cabinet." What was the
18 difference to which you refer?

19 THE WITNESS: In the case of the YONAI Cabinet
20 War Minister HATA presented his resignation to the cabi-
21 net and stated that the army could not offer a new man
22 for the post -- and there was no successor to succeed his
23 post. Therefore, the YONAI Cabinet fell. The case in
24 the third KONOYE Cabinet was that a dispute or difference
25

1 of views arose centering around the decision reached
2 at the Imperial Conference, and TOJO had not yet
3 tendered his resignation. That is the difference, that
4 is the only difference that I meant to mention.

5 THE PRESIDENT: Is there any further examina-
6 tion of any kind?

7 MR. LOGAN: May the accused be returned to the
8 dock?

9 THE PRESIDENT: The accused will resume his
10 place in the dock.

11 (Whereupon, the accused returned to
12 the dock.)
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1 THE PRESIDENT: Mr. Logan.

2 MR. LOGAN: If the Tribunal please, on KIDO's
3 order of proof, if you have it before you, I have re-
4 ceived a note from Mr. Comyns Carr that he is prepared
5 to release the following witnesses from cross-examination
6 without prejudice to objection to the whole or part of
7 their affidavits, and the absence of cross-examination
8 does not mean acceptance of the truth of the statements.

9 That refers to witnesses listed: 2, 3, 4,
10 7, 10--

11 THE PRESIDENT: Call out the names, Mr. Logan.

12 MR. LOGAN: 2, TAKEMI; 3, MAKINO; 4, SAKUDA;
13 7, KISHI; 10, TAKAGI; 11, MACHIMURA; 12, Neurath;
14 14, HIROSE; 16, YAMAZAKI; 19, AKAMATSU; 21, USHIBA.

15 And as we may be able to release some more
16 later on, this is in the interests of saving time, if
17 the Tribunal approves of it.

18 THE PRESIDENT: Any procedure you both agree
19 on and which saves time has our approval.

20 MR. LOGAN: Defense document 2696 is an affi-
21 davit from a doctor certifying to the sickness of
22 Count MAKINO, and the prosecution is not insisting
23 on his cross-examination, so I will eliminate that
24 document, 2696.

25 I now offer in evidence defense document 2247,

affidavit of Count MAKINO.

1 MR. COMYNS CARR: May it please the Tribunal,
2 prosecution objects to the greater part of this affi-
3 davit.

4 THE PRESIDENT: Mr. Comyns Carr, I think the
5 Judges had better have it in their hands before you
6 proceed to object.

7 MR. COMYNS CARR: Yes.

8 Count MAKINO, as appears from paragraph 1,
9 occupied the position of Lord Keeper of the Privy Seal
10 down to the 26th of December, 1935, since when his only
11 public position was that of economic adviser to the
12 Imperial family.

13 The affidavit consists of a dissertation by
14 him on the legal and constitutional position of the
15 Lord Keeper of the Privy Seal as he knew it in those
16 days and as he assumes it to have been in later years
17 when he no longer held the position.

18 After paragraph 1, which is merely his per-
19 sonal record, from there down to the end of or nearly
20 the end of paragraph 4 on page 5, is, in our submission,
21 entirely irrelevant as well as repetitious.

22 The last sentence in paragraph 4, the bottom
23 of page 5, might possibly be considered to be relevant
24 as it relates to the attitude of Mr. KIDO -- the last
25

1 two sentences, I should say -- at the time when he held
2 the office of Chief Secretary to the Lord Keeper, but
3 it is of no materiality or importance.

4 Paragraph 6 on page 6 is merely Count MAKINO's
5 view of the procedure on the appointment of a new Premier,
6 and he can only speak of it from his knowledge of the
7 early days, long before KIDO became Lord Keeper, which
8 is in my submission irrelevant. And those remarks
9 apply to the end of paragraph 7 on page 9.

10 Paragraph 8 is merely character evidence as to
11 the eulogies which various people bestowed upon KIDO
12 when they recommended him for the post of Chief Secre-
13 tary to the Lord Keeper in 1930, and the witness' opi-
14 nion of his character while he held that office.

15 Paragraph 9 is to the latter effect also,
16 witness' opinion of his character.

17 And paragraph 10, the remainder of the affidavit,
18 deals with attempts at the assassination of the witness,
19 himself. There is only one sentence in it, towards
20 the bottom of page 11, which relates to KIDO, and that
21 merely states that there was an attempt to assassinate
22 him more than once, which is repetition.

23 THE PRESIDENT: Well, you object to the whole
24 lot of it?

25 MR. COMYNS CARR: Yes, your Honor, in detail,

but it covers the whole.

1 THE PRESIDENT: Mr. Logan.

2 MR. LOGAN: If the Tribunal please, with
3 respect to paragraphs 2 through 4 on page 5, to which
4 Mr. Carr objects, I wish to state that paragraph 2 is
5 not irrelevant and it is not repetitious. It is not
6 repeated again in the affidavit, and that would be the
7 only ground for saying it is repetitious. That the
8 characterization is repetitious would be incorrect.
9 If Mr. Carr meant cumulative, that is no ground for
10 objection. It is corroborative of what the accused
11 himself has testified. And in a criminal case, of course,
12 cumulative testimony is not objectionable and is per-
13 mitted until the court is satisfied that no more of
14 that particular type of evidence is necessary.
15

16 Paragraph 3, which is included in that
17 objection, refers to the explanation of the regulations
18 of the office of Lord Keeper of the Privy Seal in
19 answer to prosecution exhibit 95. Since the prosecution
20 has questioned in this court on January 30, 1947, the
21 duties which KIDO assumed as Lord Keeper of the Privy
22 Seal, this is in answer to that.
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1 As the duties of the Lord Keeper of the
2 Privy Seal were somewhat flexible, depending on
3 custom, it is incumbent upon us to show what that
4 custom was and we could secure no better witness
5 for that than Count MAKINO. I might also point
6 out that Count MAKINO was Lord Keeper while the
7 accused KIDO was his chief secretary and therefore
8 they were both cognizant of the duties of the office
9 as shown in this affidavit.

10 There was no objection apparently to paragraph
11 5.

12 With respect to paragraph 6 --

13 THE PRESIDENT: There was objection.

14 MR. LOGAN: Well, if there was an objection
15 to that paragraph, the paragraph clearly shows that
16 KIDO did not conspire with the Government as alleged
17 in the Indictment. It clearly shows the line of
18 demarcation between the court officials and the
19 Government.

20 With respect to paragraph 6, the accused is
21 accused of on transcript, page 16,851, that KIDO
22 managed to bring a majority of the Senior Statesmen
23 to the view he had usually formed in advance. This
24 is offered to contradict that.

25 With respect to paragraph 7, an accusation

1 is also made on page 16,851 of the record that
2 KIDO is responsible, personally, for the recommen-
3 dation of TOJO, KOISO and SUZUKI. This, too, is
4 in answer to that and an explanation.

5 With respect to paragraph 8, which is
6 objected to on the ground it is a eulogy, I wish
7 to point out that this paragraph shows that the
8 people who appointed KIDO, recommended him for his
9 position, are not in the dock and have in no way
10 been accused throughout this entire trial of being
11 in any way concerned with any alleged conspiracy.

12 Yes, I might say, Mr. Carr, that doesn't
13 include Prince KONOYE because the prosecution during
14 the course of this trial has once referred to him
15 as a charming gentleman.

16 Furthermore, paragraph 8: With respect to
17 that paragraph, prosecution has made an accusation
18 on page 16,846 of the record that KIDO was influential
19 even when he held the minor office as Chief Secretary
20 to the Lord Keeper of the Privy Seal. This paragraph
21 explains his duties in that connection.

22 With respect to paragraph 9, which is objected
23 to on the ground it is merely character evidence, I
24 wish to point out that it is more than character
25 evidence. It refers to KIDO's state of mind and his

1 abilities, and is also directed to the charge that
2 KIDO conspired aggressive war in Counts 1 to 17
3 in the Indictment.

4 With respect to paragraph 10: In this
5 paragraph there is an explanation of the customs
6 and the traditions of the duties of the Lord Keeper
7 of the Privy Seal which can only be made clear to
8 the Tribunal in connection with the regulations of
9 the office of the Lord Keeper. I might say that
10 throughout this entire affidavit, there is a showing
11 that KIDO in his position as Lord Keeper followed
12 the customs and duties of that office and did not
13 depart from them.
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1 THE PRESIDENT: By a majority, all the
2 objections are sustained and the document is rejected.

3 MR. LOGAN: Dr. HOZUMI will present the next
4 affidavit.

5 THE PRESIDENT: Counsel HOZUMI.

6 MR. HOZUMI: Next, I call SAKUDA, Kotaro, as
7 a witness, who is No. 4 on our order of proof.

8 I am very sorry, your Honor. I hear that
9 there is to be no cross-examination of this witness,
10 so I shall merely read his affidavit.

11 THE PRESIDENT: Tender it first.

12 MR. HOZUMI: I tender it.

13 THE PRESIDENT: Any objection?

14 MR. COMYNS CARR: May it please the Tri-
15 bunal, the prosecution objects to this affidavit in
16 part on grounds similar to those applicable to the
17 last one. This deponent held no office, but he was
18 a member of the Diet and of the Minseito party for
19 a number of years.

20 At page 1, which is just his history, we
21 object to paragraph 2 till near the end of paragraph
22 4 on page 6. It begins with the historical dissertation
23 about the circumstances in -- the political conditions
24 in 1928 and '29, which have nothing to do with the
25 case of Marquis KIDO -- Mr. KIDO or, indeed, anything

1 else before this Tribunal, any other issue before
2 this Tribunal.

3 Paragraph 3 deals with the position, legal
4 and otherwise, with regard to the regulations for
5 the appointment of the War Minister and the Navy
6 Minister and the change in them under the HIROTA
7 Cabinet in 1936, the whole of the facts of which are
8 before this Tribunal, and the witness' repetition of
9 them or opinion about them is, in our submission,
10 irrelevant.

11 Paragraph 4, until you get to the last four
12 lines on page 6, is a dissertation of the witness'
13 opinion about the working of the constitution, par-
14 ticularly with regard to advice given by the Minister
15 of State to the Emperor and by the Lord Keeper to the
16 Emperor and the method of choosing a new Premier, as
17 to which again the Tribunal has all the facts and
18 is in a much better position to form an opinion than
19 the witness.

20 THE PRESIDENT: Your objections will take
21 some time to state?

22 MR. COMYNS CARR: A little longer, your Honor.

23 THE PRESIDENT: We will adjourn for fifteen
24 minutes.
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(Whereupon, at 1445, a recess was

1 taken until 1500, after which the proceed-
2 ings were resumed as follows:)

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Y 4 MARSHAL OF THE COURT: The International
e 5 Military Tribunal for the Far East is now resumed.
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THE PRESIDENT: Mr. Comyns Carr.

MR. COMYNS CARR: May it please the Tribunal,
10 at the bottom of page 6, the last four lines, begins
11 a long passage going to the middle of page 12, which
12 is in rather a different position. It consists of a
13 resume of opinions alleged to have been expressed to
14 the witness by KIDO, sometimes with some kind of a
15 date, mostly without any date, and summarized and
16 repeated by the witness.

17 Now, the Tribunal has in cases where it was
18 not known whether an accused was going to testify him-
19 self admitted statements alleged to have been made
20 by him to other people as to his opinions. The
21 position, however, is somewhat different where the
22 accused has testified, has stated his opinions, and
23 been cross-examined about them and documents are in
24 evidence in regard to them.

25 THE PRESIDENT: This may be corroborative,
though, without being **repetitive or cumulative** in the
true sense.

1 MR. COMYNS CARR: Under the Charter the
2 Tribunal may so decide to treat it, your Honor. In
3 our own courts it has always been ruled that a man
4 cannot corroborate himself by showing he said the
5 same thing to somebody else that he is testifying to
6 in court.

7 THE PRESIDENT: A man cannot lift himself by
8 his own shoestrings, as it has been stated.

9 MR. COMYNS CARR: Yes, if the Tribunal please.

10 THE PRESIDENT: This is perhaps different.
11 He is testifying as to his state of mind, and this
12 may be corroboration of that.

13 MR. COMYNS CARR: Your Honor, I agree that
14 this is a new point and stands on a different footing
15 from the rest of the objections I am taking, but we
16 thought it proper to submit it to the ruling of the
17 Tribunal.

18 The paragraph in the middle of page 12 is,
19 in our submission, objectionable on other grounds.
20 The witness there professes to state of his own know-
21 ledge a matter which manifestly cannot be within his
22 own knowledge, namely, the nature of the advice offered
23 to the Emperor by KIDO. In the first sentence he says
24 that it is from his own observation and experience
25 and information obtained from others, unnamed, and

1 in the next sentence he says it is within his own
2 knowledge; but, in my submission, it obviously cannot
3 be, and he does not say he obtained it from KIDO,
4 the only person from whom he could obtain it.

5 Following that, the next page is only sub-
6 ject to the same objection I mentioned just now and
7 would stand or fall with that, down to the last sen-
8 tence on page 13, which, in our submission, is objec-
9 tionable, anyway, a statement of some unnamed efforts
10 said to be well known to all Japanese; and from the
11 middle of page 14, the sentence beginning "This
12 provides an eloquent commentary on Marquis KIDO's
13 lofty personality" to the end of the affidavit is
14 merely character, in our submission, and objection-
15 able on that ground.

16 THE PRESIDENT: Counselor HOZUMI.

17 MR. HOZUMI: I reply, first of all, to the
18 objection raised by the prosecution in regard to
19 paragraph 2. Paragraph 2 refers to the first part of
20 the alleged conspiracy charged by the prosecution,
21 namely, from 1928 to the outbreak of the Manchurian
22 Incident -- to around 1932.

23 THE MONITOR: To the time of the outbreak of
24 the Manchurian Incident.
25

(Continuing) -- to the time of the outbreak

1 of the Manchurian Incident, and refers to the struggle
2 between the military and the political parties.

3 This paragraph is necessary in order to correctly
4 interpret KIDO's actions after he became Lord Keeper
5 or Minister of State -- as well as Minister of State,
6 as a member of the cabinet.

1 In regard to paragraph 3, Mr. Comyns Carr
2 charged on the 30th of January 1947, record, page
3 16,851, that KIDO was responsible for the recommenda-
4 tion of TOJO, KOISO and SUZUKI as Prime Minister.
5 This paragraph meets that charge.

6 Next, paragraph 4. The first part of this
7 paragraph proves that the Lord Keeper was not in such
8 a position as to be able to advise the Emperor to
9 reject any policies decided on by the cabinet and
10 shows that he was unable to do this either by custom
11 or by actual practice. Furthermore, in connection
12 with this, on record, page 16,852, Mr. Comyns Carr
13 has stated that KIDO did not guide TOJO in such a
14 way as to make him hopeful for the progress of the
15 Japan-America negotiations.

16 Furthermore, on page 16,855 of the record,
17 Mr. Comyns Carr has charged that in connection with
18 the outbreak of the war KIDO did not cause the
19 Emperor to have the moral concern concerning the
20 commencement of the war, and this passage meets that
21 charge.

22 Furthermore, on record, page 16,850-51,
23 the prosecutor has charged that KIDO developed his
24 powers in the recommendation of Prime Ministers and
25 also influenced the Senior Statesmen in this connection.

1 This is a reply to that charge. This appears in
2 paragraph 2 on page 6 of the affidavit.

3 As for the first paragraph on page 7,
4 beginning with the words, "I often heard," Mr. Comyns
5 Carr charged on the 30th of January of this year that
6 KIDO was one of the prime movers in the formation of
7 a totalitarian party after the Fascist model -- a
8 single party system on the Fascist model. This
9 appears on page 16,850 of the English transcript.

10 Next, on page 8, from "Later Marquis KIDO's
11 Diet-first idea," et cetera, through the whole of
12 page 9, this section is offered to meet the prosecu-
13 tion charges in the Indictment as well as the charges
14 made by Mr. Comyns Carr on January 30, 1947, that
15 KIDO was an anti-democratic statesman.

16 Next, page 10, "I had frequent conversations
17 with Marquis KIDO," the paragraph beginning with those
18 words, that paragraph is offered to prove Marquis
19 KIDO's statement -- is to corroborate Marquis KIDO's
20 statement made in his affidavit that he had devoted
21 his life to fighting the militarists.

22 Next, two lines from the bottom of page 10,
23 from the words, "General UGAKI was frequently," and
24 the succeeding page, this part of the affidavit is
25 offered to meet Mr. Comyns Carr's charge on page

1 16,853 of the transcript that KIDO refused the
2 appointment of General UGAKI as Prime Minister
3 although UGAKI was probably the only man who could
4 have prevented war.

5 Next, the last paragraph on page 12,
6 beginning with the words, "I am not sure when," to
7 the end of page 13. As to this part of the affidavit,
8 I believe the prosecution's objections are justifiable;
9 however, I believe that it may be offered--

10 THE MONITOR: On the grounds of mitigation
11 I wish to prove this point.

12 Next, from the beginning of page 14, "After
13 the army," to the middle of that same page, "upper-
14 most in their minds," this part of the affidavit is
15 offered to prove that Marquis KIDO respected parlia-
16 mentary politics -- government -- and that he was not
17 involved in a conspiracy with the military.

18 The last part of the affidavit, beginning from,
19 "This provides an eloquent commentary," to the end, is
20 character evidence and therefore we will be happy to
21 withdraw that portion.

22 THE PRESIDENT: The part that gives us most
23 difficulty is that which Mr. Comyns Carr does not press.
24 The accused is charged with having a guilty mind. To
25 rebut that charge he can show what his beliefs were.

1 If he stated those beliefs to some other person or
2 persons at a time when there was no thought of any
3 prosecution like this, it would appear that the
4 evidence of that other person would be corroborative.
5 Otherwise an accused would be limited to his own
6 evidence in establishing such an important thing as
7 his beliefs and his state of mind.

8 By a majority, the Court upholds the
9 objections as regards paragraphs 2, 3, paragraph 4
10 up to the last four lines on page 6, and pages 14
11 and 15.

12 Do you follow what I have said?

13 MR. HOZUMI: I am sorry. It is rather diffi-
14 cult to collate the English copy of the affidavit with
15 the Japanese.

16 THE PRESIDENT: Put a pencil through paragraphs
17 2, 3, and paragraph 4 up to the last four lines on
18 page 6, and through the whole of pages 14 and 15.
19 Read the balance.

20 MR. COMYNS CARR: Your Honor, I am advised
21 that there are some rather material translation errors
22 in this affidavit. On page 8, there are two errors
23 which change the sense, and on page 10, there is a
24 whole sentence in the English which isn't in the Japa-
25 nese at all. I do not know how the Tribunal would like

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1 to deal with this matter, alleged errors in the trans-
2 lation of affidavits. If they are read in their un-
3 corrected form, it may be misleading to the Tribunal;
4 but, on the other hand, only the Arbitration Board can
5 decide.

6 THE PRESIDENT: I suggest we defer the read-
7 ing of this affidavit until tomorrow. In the meantime,
8 let the Language Arbitration Board report.

9 MR. HOZUMI: We shall do as the President says.

10 THE PRESIDENT: Admitted on the usual terms
11 to the extent indicated.

12 CLERK OF THE COURT: Defense document
13 No. 2258 will receive exhibit No. 3343.

14 (Whereupon, the document above
15 referred to was marked defense exhibit
16 No. 2258 and received in evidence to the
17 extent indicated above.)

18 THE PRESIDENT: What is the next document?
19 What is happening? Do take us into your
20 confidence, whatever you are doing.

21 MR. HOZUMI: I am sorry.

22 Next, Mr. Logan will present the affidavit
23 of the witness HIROHATA.

24 MR. LOGAN: We offer in evidence defense
25 document 2248. We understand there is to be no

1 cross-examination of this witness, also.

2 THE PRESIDENT: Is there no objection?

3 MR. LOGAN: The affidavit of HIROHATA, Tadataka.

4 MR. COMYNS CARR: The prosecution objects to
5 considerable parts of this affidavit on similar grounds
6 to the others.

7 The only position which he held which qualifies
8 him in any way to give the evidence he does was that of
9 Deputy Grand Chamberlain from 1932 to 1945.

10 We object to paragraph 3 as being irrelevant
11 matter about the history of KIDO's grandfather and
12 father and his early educational associations.

13 Paragraph 4 does claim to have been in part
14 obtained from conversations with KIDO, but in my sub-
15 mission it contains no such information of any material-
16 ity and is really nothing but character evidence.

17 Paragraph 5 consists of negotiations which
18 took place as to whether KIDO or somebody else should
19 succeed the Lord Keeper after the February 26 Incident,
20 which resulted in somebody else being appointed, and is,
21 in our submission, immaterial.

22 Paragraph 6 is, in our submission, again merely
23 character evidence, consisting of the names of various
24 people who recommended KIDO for a appointment in June,
25 1940.

Paragraph 7 is all about the education of the Emperor when young, and the Emperor's ideas expressed in poetical and other forms at various times, and so far as KIDO figures in it at all, it is merely to say that KIDO agreed with the Emperor and that the Emperor had confidence in him; in our submission all irrelevant.

We do not object to paragraph 8 until you get to the bottom of page 9, the last five lines, and there our objection extends a long way, to the bottom of page 13, which is the end of paragraph 9. It is all the witness' opinion as to what were the duties of the Lord Keeper of the Privy Seal and what sort of advice he ought to offer to him and what he thinks Prince SAIONJI and Count MAKINO thought about it, and that the Tribunal has already rejected, and contains a long account of the appointment of General TOJO as Prime Minister alleged to have been obtained not from KIDO, but from the Emperor, so far as any source of information is disclosed at all.

The last half of page 13 is of the same kind, the witness simple alleging as facts without source of information, matters about divergence of view among cabinet members and efforts said to have been made by KIDO.

1 Paragraph 10 consists of the witness' views
2 as to the reasons why the Emperor did not take various
3 steps. And the only reference on page 14 to KIDO at
4 all is that it is said that he was one of those who
5 were afraid of a coup d'etat.

6 On page 15, the latter part of paragraph 10,
7 the only reference to KIDO is right at the end, where
8 it is said that he was in full accord with the Emperor.

9 In paragraph 11 he alleges a rumor and devotes
10 the paragraph to attempting to demolish the rumor.

11 And that takes us to the end of the affidavit;
12 so, that, in our view, there is very little admissible
13 in it.

14 THE PRESIDENT: Am I right in saying your
15 objection is to everything except paragraphs 1, 2 and 8?

16 MR. COMYNS CARR: Except part of paragraph 8.

17 THE PRESIDENT: On page 9?

18 MR. COMYNS CARR: Yes, your Honor.

19 THE PRESIDENT: Excepting the last five lines?

20 MR. COMYNS CARR: Yes, your Honor. Even that
21 is merely the witness' description of what he conceives
22 the duties of the Lord Keeper to have been. It is of
23 no further assistance than that, and perhaps really I
24 should have extended my objection to that and objected
25 to the whole affidavit.

1 THE PRESIDENT: Mr. Logan.

2 MR. LOGAN: If the Tribunal please, I think
3 it is a physical impossibility to try and follow these
4 objections done orally from the lectern. I cannot
5 write that fast. In properly protecting the rights
6 of my client, I cannot answer them at the present time.

7 THE PRESIDENT: You mean you have noted what
8 is objected to, but you cannot recall the grounds?

9 MR. LOGAN: I beg pardon? I did not hear
10 what your Honor said; I am sorry.

11 I served these affidavits over three weeks
12 ago and asked the prosecution if they had any objection
13 to them to let me know. I have not heard until this
14 minute. Where various objections are taken to various
15 paragraphs, it is impossible for me to properly follow
16 them. They jump around, skip around; it is hard enough
17 to follow the paragraphs that are objected to, let alone
18 the grounds for the objections.

19 THE PRESIDENT: They were taken in numerical
20 order; we must say that for Mr. Carr.

21 MR. LOGAN: The only way I can argue in favor
22 of the affidavit is to tell you why we have put every
23 paragraph in. As far as I can find out in trying to
24 follow them, I think all of his objections are absolutely
25 groundless.

1 THE PRESIDENT: Perhaps we will defer this
2 matter until tomorrow morning with a view to enabling
3 you to formulate your answers. But is there a short
4 affidavit you could put in the next ten minutes?

5 MR. LOGAN: Yes.

6 THE PRESIDENT: We will defer this matter
7 until tomorrow morning.
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1 MR. LOGAN: We offer in evidence defense docu-
2 ment 2254.

3 THE PRESIDENT: Is there no objection? Ad-
4 mitted on the usual terms, if not.

5 CLERK OF THE COURT: Defense document No. 2254
6 will receive exhibit No. 3344.

7 (Whereupon, the document above re-
8 referred to was marked defense exhibit No.
9 3344 and received in evidence.)

10 MR. LOGAN: I will read exhibit 3344, deposi-
11 tion of KISHI, Michizo:

12 "1. I, KISHI, Michizo, served Prince KONOYE,
13 Prime Minister of the First KONOYE Cabinet as his sec-
14 retary from June, 1937 to January, 1939.

15 "2. At the request of Prime Minister KONOYE
16 towards the evening of December 16, 1937, I called up
17 the private residence of Marquis KIDO, Minister of
18 Education, to seek an interview with him and ask his
19 convenience. I was told that the Education Minister had
20 been at the Koyokan, a restaurant, so I went to the
21 Koyokan at about 7:30 p.m. and had an interview with the
22 Education Minister.

23 "3. Prime Minister KONOYE told me to convey
24 the following message to Marquis KIDO, Minister of Educa-
25 tion:

1 "The terms of peace with China, to be con-
2 cluded through the intermediary of German Ambassador
3 Trautman has been decided by the Liaison Conference.
4 I, as Prime Minister, am anxious to make peace with
5 China under those terms by all means, but the army's
6 attitude is not definitely known. When those peace
7 terms are submitted to tomorrow's cabinet meeting, will
8 you be good enough to ask General SUGIYAMA, War Minister,
9 about that point and sound the army's real intentions
10 for the Prime Minister?'

11 "I conveyed the Prime Minister's message to the
12 Minister of Education as it was.

13 "4. I recall that Marquis KIDO, Minister of
14 Education said that it was a very troublesome question,
15 but he would think it over, as the China Affair must be
16 settled at that juncture.

17 "5. I immediately left the Koyokan and reported
18 my interview with Prime Minister KONOYE.

19 "6. I remember hearing from Prime Minister
20 KONOYE that Marquis KIDO, Minister of Education, at the
21 cabinet meeting of December 17, spoke as requested by
22 Prime Minister KONOYE."

23 Sworn to July 23, 1947.

24 THE PRESIDENT: Have you another short affi-
25 davit we could dispose of tonight?

1 MR. LOGAN: I have another short one.

2 THE PRESIDENT: I have no desire to interfere
3 with the logical order.

4 MR. LOGAN: That is all right. That is no
5 inconvenience, if the Tribunal please.

6 We offer in evidence defense document 2255.

7 THE PRESIDENT: Any objection?

8 Admitted on the usual terms.

9 CLERK OF THE COURT: Defense document No. 2255
10 will receive exhibit No. 3345.

11 (Whereupon, the document above re-
12 referred to was marked defense exhibit No.
13 3345 and received in evidence.)

14 MR. LOGAN: I shall read exhibit 3345, deposi-
15 tion of TAKAGI, Yasaka:

16 "I, TAKAGI, Yasaka, make oath and say as fol-
17 lows:

18 "1. I, TAKAGI, Yasaka graduated from the Law
19 College of the Tokyo Imperial University in 1915. In
20 1918 when the so-called American chair was founded with
21 an endowment from Mr. A. Barton Hepburn at the Tokyo
22 Imperial University, I was appointed lecturer to take
23 charge of the new chair. Later, I was promoted assistant
24 professor.
25

"In the spring of 1919, I went over to the

1 United States of America, where I studied at various
2 universities until the spring of 1923, including
3 Harvard University where I was granted the degree of A.M.
4 in 1921. I also attended Michigan and Chicago Uni-
5 versities.

6 "During my four-year sojourn in America, I
7 devoted myself to the exclusive studies of the history,
8 politics, idea and institutions of America and I spent
9 some time in Washington, D. C.

10 "2. In 1924, I took charge of the said chair
11 of American Constitution, History and Diplomacy at the
12 Law Department of the Tokyo Imperial University. The
13 same year, I was promoted to full professor and have
14 continued as such up to the present time. I have since
15 devoted the past twenty-three years to the studies of
16 and lectures on the American ideas and institution. The
17 KIDO brothers were among my classmates when I changed
18 schools and entered the Peers' School in 1905. Marquis
19 KIDO and his brother Dr. WADA, Koroku were among my
20 best, old friends.

21 "3. When Marquis KIDO assumed the portfolio
22 of Minister of Education in 1937, I had frequent oppor-
23 tunities to discuss University questions with him. I
24 know of no acts of his which had any totalitarian
25 tendency, still less a Fascist trend. At that time the

1 Tokvo Imperial University was confronted with a set of
2 difficult questions, caused by a tense situation includ-
3 ing those pertaining to chairs, personnel affairs about
4 professors and others. Marquis KIDO, who paid full
5 respect to University autonomy, closely cooperated with
6 Dr. NAGAYO, President of the Tokyo Imperial University,
7 in his official capacity as Education Minister. In my
8 conversations with Marquis KIDO about University matters
9 I found he had common ideas with the University author-
10 ities about University autonomy, never trying to antagon-
11 ize or bring pressure to bear upon the University. In
12 dealing with the question of Professor YANAIBARA, Marquis
13 KIDO stated that he refused to interfere, leaving the
14 solution of the problem to the University authorities.
15 I was one of the councillors of the University at that
16 time and I know that Marquis KIDO did not interfere,
17 nor exert any pressure whatsoever in connection with
18 Professor YANAIBARA's resignation.

19 "4. On August 3, 1945 I met Marquis KIDO and
20 told him that it would be better to broach peace talks
21 directly to the United States of America. In reply, the
22 Marquis explained that the reason why Japan proposed
23 peace through the Soviet Union was due to her respect
24 for the latter's neutral position. He expressed himself
25 in favor of keeping two routes open for peace talks

1 without dropping the negotiations with the Soviet Union.
2 After all, he said, Japan must seize the best oppor-
3 tunity to terminate hostilities and the opportunity was
4 now ripe. He clearly stated that he would place implicit
5 confidence in the firm determination of Prime Minister
6 SUZUKI, who was charged with the great task. A complete
7 identity of views existed between the Marquis and me on
8 a peace formula, which envisaged both world peace and
9 national salvation. On that occasion, I obtained
10 an indelible impression that he was determined to work
11 for peace regardless of the consequences to his own per-
12 sonal safety."

13 Signed February 7, 1947 by TAKAGI, Yasaka.

14 THE PRESIDENT: We will adjourn until half-
15 past nine tomorrow morning.

16 (Whereupon, at 1600, an adjournment
17 was taken until Friday, 24 October 1947,
18 at 0930.)
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